

ESRD facility. An ESRD facility is an independent facility or a hospital-based provider of services (as described in §413.174(b) and (c) of this chapter), including facilities that have a self-care dialysis unit that furnish only self-dialysis services as defined in §494.10 of this chapter and meets the supervision requirements described in part 494 of this chapter, and that furnishes institutional dialysis services and supplies under §410.50 and §410.52 of this chapter.

New ESRD facility. A new ESRD facility is an ESRD facility (as defined above) that is certified for Medicare participation on or after January 1, 2011.

Pediatric ESRD Patient. A pediatric ESRD patient is defined as an individual less than 18 years of age who is receiving renal dialysis services.

Renal dialysis services. Effective January 1, 2011, the following items and services are considered “renal dialysis services,” and paid under the ESRD prospective payment system under section 1881(b)(14) of the Act:

(1) Items and services included in the composite rate for renal dialysis services as of December 31, 2010;

(2) Erythropoiesis stimulating agents and any oral form of such agents that are furnished to individuals for the treatment of ESRD;

(3) Other drugs and biologicals that are furnished to individuals for the treatment of ESRD and for which payment was (prior to January 1, 2011) made separately under Title XVIII of the Act (including drugs and biologicals with only an oral form),

(4) Diagnostic laboratory tests and other items and services not described in paragraph (1) of this definition that are furnished to individuals for the treatment of ESRD.

(5) Renal dialysis services do not include those services that are not essential for the delivery of maintenance dialysis.

Separately billable items and services. Items and services used in the provision of outpatient maintenance dialysis for the treatment of individuals with ESRD that were or would have been, prior to January 1, 2011, separately payable under Title XVIII of the Act and not included in the payment

systems established under section 1881(b)(7) and section 1881(b)(12) of the Act.

[75 FR 49198, Aug. 12, 2010]

§413.172 Principles of prospective payment.

(a) Payment for renal dialysis services as defined in §413.171 and home dialysis services as defined in §413.217 of this chapter are based on payment rates set prospectively by CMS.

(b) All approved ESRD facilities must accept the prospective payment rates established by CMS as payment in full for covered renal dialysis services as defined in §413.171 or home dialysis services. Approved ESRD facility means—

(1) Any independent ESRD facility or hospital-based provider of services (as defined in §413.174(b) and §413.174(c) of this part) that has been approved by CMS to participate in Medicare as an ESRD supplier; or

(2) Any approved independent facility with a written agreement with the Secretary. Under the agreement, the independent ESRD facility agrees—

(i) To maintain compliance with the conditions for coverage set forth in part 494 of this chapter and to report promptly to CMS any failure to do so; and

(ii) Not to charge the beneficiary or any other person for items and services for which the beneficiary is entitled to have payment made under the provisions of this part.

(c) CMS publishes the methodology used to establish payment rates and the changes specified in §413.196(b) in the FEDERAL REGISTER.

[62 FR 43668, Aug. 15, 1997, as amended at 73 FR 20474, Apr. 15, 2008; 75 FR 49198, Aug. 12, 2010]

§413.174 Prospective rates for hospital-based and independent ESRD facilities.

(a) *Establishment of rates.* CMS establishes prospective payment rates for ESRD facilities using a methodology that—

(1) Differentiates between hospital-based providers of services and independent ESRD facilities for items and services furnished prior to January 1, 2009;